

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

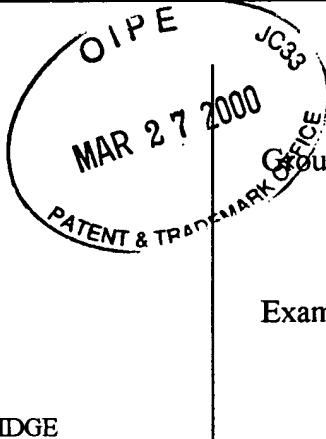
In re Application of:

GREGORY YUSCHAK ET AL.

Serial No.: 09/030,394

Filed: March 25, 1998

For: RESPIRATOR HAVING  
SNAP-FIT FILTER CARTRIDGE



Examiner: A. Lewis

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TECHNOLOGY CENTER 3700

RESPONSE

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed December 29, 1999, applicants supply the following remarks.

Applicants submit that the present invention is neither anticipated by nor made obvious over the Tayebi patent because Tayebi does not disclose a filter cartridge that is capable of being manually snapped into engagement with the cartridge receiving structure. Tayebi also fails to disclose a filter cartridge that is capable of being readily separated from the cartridge receiving structure by manually pulling thereon.

The Examiner takes the position that Tayebi's retainer 19 fulfills the requirements of the "filter cartridge" limitation of the present invention. The Examiner asserts that this position is sound because Tayebi's filter 17 is contained within the retainer 19 as shown in Tayebi's Figure 3. Thus, the Examiner is evaluating Tayebi from the perspective of a "snap-shot", which is taken while the retainer is present on the mask shell 11. Applicants' claim, however, does not reflect such an approach for evaluating the filter cartridge limitation.

As set forth in applicants' claim and the accompanying specification, the filter cartridge has a (i) housing into which the (ii) filter element is contained and together these two elements (i) and (ii) are capable of being manually snapped onto a cartridge receiving structure as a unitary body; not two separate parts. Both the language in applicants' claims and the supporting specification

make this clear. Although Tayebi's receiving structure 19 may allegedly "contain" a filter 17 while the retainer 19 is secured to the face mask, the retainer 19 and the filter element 17 are not manually snapped into engagement with a cartridge receiving structure as a filter cartridge. In contrast, Tayebi's filter element 17 does not move with the retainer 19, either prior to insertion of the retainer or during removal of the retainer from the outer shell 11. As applicants' had pointed out in their earlier response, the paragraph bridging columns 10 and 11 of Tayebi shows that Tayebi does not have the capability of snapping the housing and filter element onto the mask *together as a filter cartridge*:

When it is desired to replace filter 17, retainer 19 is grasped near one edge and pulled, removing the retainer from the inside of mask shell 11. The spent filter 17 is then removed and replaced with a new filter 17 and retainer 19 is then reinstalled.

Because the filter 17 and the retainer 19 are not capable of being snapped into engagement with the mask shell and being removed from the mask shell 11 together as a filter cartridge, Tayebi cannot anticipate nor render obvious the subject matter claimed in the present invention. The Examiner is reminded that claims are not construed during prosecution to have the broadest construction possible, but rather are construed to have the broadest *reasonable* construction, interpretation, or meaning *consistent with the specification*.<sup>1</sup>

Accordingly, applicants respectfully request that the Examiner carefully reconsider the scope and content of the Tayebi reference in light of applicants' claimed invention so that the different structure and function can be fully appreciated. Please allow this application at an early date.

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<sup>1</sup> *In re Reuter*, 210 USPQ 249, 253 (CCPA 1981); *In re Sneed*, 218 USPQ 385, 388 (Fed. Cir. 1983).

Dated this 20<sup>th</sup> day of March, 2000.

Respectfully submitted,

  
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with the United States Postal Service as First Class Mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, DC 20231

  
Karl G. Hanson

Dated: March 20, 2000